

**TESTIMONY OF GARY B. O'CONNOR
BEFORE THE PUBLIC HEALTH COMMITTEE
OF THE GENERAL ASSEMBLY**

MARCH 12, 2010

REGARDING RAISED BILL NO. 428

My name is Gary O'Connor. I am a partner at the law firm of Pepe & Hazard LLP. I have had more than 15 years of experience representing ambulance providers in the State of Connecticut. I am here on behalf of the Association of Connecticut Ambulance Providers (the "Association"). I originally came here to speak in opposition to Section 23 of Raised S.B. No. 428; however, I believe we have just reached a resolution with the Department of Public Health regarding Section 23 and I incorporate the agreed language as an attachment to my written testimony.

Nevertheless, since the Raised Bill before you does not reflect the revised language I believe it is necessary, for the record, to explain why the Association is adamantly opposed to Section 23. Section 23, in its current form, will profoundly disrupt the emergency medical service system in Connecticut without any tangible savings to the State. By far, it is the single greatest attack on the EMS system in decades. Ironically, while the legislature this session faces the enormous challenge of placing the State's fiscal house in order, we are here today discussing proposed legislation that will negatively impact a system that has operated safely and efficiently for the past 30 years.

More than 30 years ago, this legislature determined, in its wisdom, that the old free market system, in which emergency medical services had operated, did not work. That system raised legitimate concerns about unanswered calls, deficient coverage of

rural and suburban areas, and unnecessary inefficiencies where multiple services responded or even raced to a call. History had also shown that under the previous free market system, other serious abuses existed that affected patient safety and the integrity of EMS in Connecticut. They included: fights among responding providers as to who would transport the patient, payoffs, and a pattern of bogus calls being placed to competitors.

As a result of the abuses and inefficiencies of the system, the legislature created a highly regulated public utility model built on three pillars: the primary service area, the Certificate of Need process and regulation of rate setting. Under existing legislation, only one EMS provider is designated for each level of emergency medical services in a particular geographic area, called a primary service area. This designated provider, known as the primary service area responder or PSAR, is highly regulated by DPH and obligated to: (i) to provide high quality emergency medical services on a 24 hour a day, seven days a week basis as needed by the community; (ii) predict and plan for the need of the PSA; (iii) maintain an inventory of trained and qualified EMS personnel, vehicles and equipment; and (iv) coordinate services with medical controls through a sponsor hospital. The ability of the PSAR to fulfill these obligations is crucial for a sound EMS system in Connecticut. In recognition of these obligations, the State granted certain entitlements to the PSAR. The PSAR is assured of receiving first rights to all emergency calls in the PSA and, therefore, the bulk of the emergency revenues for those calls. These revenues, *in part*, enable the PSAR to fulfill its obligations under statute and regulation.

The second pillar of the EMS system is the Certificate of Need process. Under existing legislation, providers may only provide new or expanded emergency medical services through Certificate of Need proceedings. For instance, if a new company decided that it wanted to open a new ambulance service in the State of Connecticut, it would have to apply to the Commissioner and show through the Certificate of Need proceedings that there was a legitimate need for the new service. Likewise, an existing entity that wanted to double the number of vehicles it had on the road would also have to apply to the Commissioner and justify the need for the additional vehicles. The Certificate of Need requirement was based on some sound public policy, namely, the unregulated creation of new or expanded emergency medical services would undermine the very efficient yet fragile emergency medical system that had been established in the State.

The third pillar is the regulation of EMS provider rates in the State. Any EMS provider who seeks a rate increase beyond the prescribed healthcare inflation index, must file an extensive application which includes comprehensive details of its financial operation and justification for the rate increase. Under this process the Commissioner has the opportunity to insure that the provider is operating efficiently and will only receive a reasonable rate of return.

The EMS system, based on these three pillars, has worked effectively in Connecticut for the past 30 years. Section 23 of the proposed legislation would vicerate the Certificate of Need process for existing EMS providers. As currently written, Section 23 would allow existing EMS providers to short-circuit the Certificate of Need process in a number of important areas. First, any existing EMS provider will be able

to increase its number of ambulances and other EMS vehicles by filing a short-form application without objection from other EMS providers. Secondly, existing certified ambulance providers will be able to convert to a licensed provider status by simply filing a short-form application with DPH. These changes will have the unintended consequence of flooding the system with additional providers and ambulances capable of performing non-emergency ambulance transportation. This will pose a tremendous financial hardship to PSAR's who have historically covered part of the cost of fulfilling their PSA obligations through revenues received from non-emergency transports. If this scenario were to occur, a number of the commercial ambulance providers, who have been the backbone of the State's EMS system, would be forced out of business. The highly safe, efficient and cost-effective system that we have become used to will no longer exist. We will revert back to a system of coverage gaps, inefficiencies and long response times.

We are hopeful that the new language for Section 23, which has been agreed upon by DPH and the commercial ambulance providers, will be adopted because it addresses our concerns and maintains the integrity of the EMS system. Until it is adopted, we must respectfully oppose Section 23 of S.B. No. 428.

Thank you.